

ASSEMBLY BILL

No. 1007

Introduced by Assembly Member Carter

February 27, 2009

An act to amend Section 35012 of the Education Code, relating to governing boards, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1007, as introduced, Carter. Governing boards: pupil members.

(1) Existing law requires the governing board of a school district maintaining one or more high schools to appoint to its membership one or more nonvoting pupil members if pupils petition the governing board to make those appointments.

This bill, commencing July 1, 2009, would delete the requirement that a petition be submitted, and instead require the governing board of a school district to appoint one or more nonvoting pupil members to the board. Because the bill would require school districts to provide a higher level of service, it would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 35012 of the Education Code is amended
2 to read:

3 35012. (a) Except as otherwise provided, the governing board
4 of a school district shall consist of five members elected at large
5 by the qualified voters of the district. The terms of the members
6 shall, except as otherwise provided, be for four years and staggered
7 so that as nearly as practicable one-half of the members shall be
8 elected in each odd-numbered year.

9 (b) A unified school district may have a governing board of
10 seven members in the event the proposal for unification has
11 specified a governing board of seven members. The members of
12 the board shall be elected at large or by trustee areas as designated
13 in the proposal for unification and shall serve four-year terms of
14 office.

15 (c) Notwithstanding subdivision (a), and except as provided in
16 this subdivision and Section 5018, the governing board of an
17 elementary school district other than a union or joint union
18 elementary school district shall consist of three members selected
19 at large from the territory comprising the district. Whenever, in
20 any such elementary school district the average daily attendance
21 during the preceding fiscal year is 300 or more, the procedures
22 prescribed by Section 5018 shall be undertaken.

23 ~~(d) There may be submitted to the governing board of a school~~
24 ~~district maintaining one or more high schools a pupil petition~~
25 ~~requesting the governing board to appoint one or more nonvoting~~
26 ~~pupil members to the board pursuant to this section.~~

27 *(1) Commencing July 1, 2009, the governing board of a school*
28 *district maintaining one or more high schools shall appoint one*
29 *or more nonvoting pupil members to the board.*

30 ~~(2) There may also be submitted to the governing board of a~~
31 ~~school district maintaining one or more high schools a pupil~~
32 ~~petition requesting the governing board to allow preferential voting~~
33 ~~for the pupil member or members of the board. This request may~~
34 ~~be made in the original petition for pupil representation on the~~
35 ~~board or in a separate petition after a pupil member or members~~

1 have been appointed to the board. Whether for pupil representation
2 or for preferential voting for the pupil member or members, the
3 *This* petition shall contain the signatures of either (a) not less than
4 500 pupils regularly enrolled in high schools of the district, or (b)
5 not less than 10 percent of the number of pupils regularly enrolled
6 in high schools of the district, whichever is less.

7 Upon receipt of a petition for pupil representation, the governing
8 board shall, commencing July 1, 1976, and each year thereafter,
9 order the inclusion within the membership of the governing board,
10 in addition to the number of members otherwise prescribed, at
11 least one nonvoting pupil member. The board may order the
12 inclusion of more than one nonvoting pupil member.

13 (3) Upon receipt of a petition for preferential voting for the
14 pupil member or members *this petition*, the governing board shall
15 allow preferential voting for the pupil member or members of the
16 governing board.

17 (4) "Preferential voting," as used in the section, means a formal
18 expression of opinion that is recorded in the minutes and cast prior
19 to the official vote of the governing board. A preferential vote will
20 not serve in determining the final numerical outcome of a vote.
21 No preferential vote will be solicited on matters subject to closed
22 session discussion.

23 (5) The governing board may adopt a resolution authorizing the
24 nonvoting or preferential voting pupil member or members to make
25 motions that may be acted upon by the governing board, except
26 on matters dealing with employer-employee relations pursuant to
27 Chapter 10.7 (commencing with Section 3540) of Division 4 of
28 Title 1 of the Government Code.

29 (6) Each pupil member shall have the right to attend each and
30 all meetings of the governing board, except executive sessions.

31 (7) Any pupil ~~selected~~ *appointed* to serve as a nonvoting or
32 preferential voting member of the governing board shall be enrolled
33 in a high school of the district, may be less than 18 years of age,
34 and shall be chosen by the pupils enrolled in the high school or
35 high schools of the district in accordance with procedures
36 prescribed by the governing board. The term of a pupil member
37 shall be one year commencing on July 1 of each year.

38 (8) A nonvoting or preferential voting pupil member shall be
39 entitled to the mileage allowance to the same extent as regular

1 members, but is not entitled to the compensation prescribed by
2 Section 35120.

3 (9) A nonvoting or preferential voting pupil member shall be
4 seated with the members of the governing board and shall be
5 recognized as a full member of the board at the meetings, including
6 receiving all materials presented to the board members and
7 participating in the questioning of witnesses and the discussion of
8 issues.

9 (10) The nonvoting or preferential voting pupil member shall
10 not be included in determining the vote required to carry any
11 measure before the board.

12 (11) The nonvoting or preferential voting pupil member shall
13 not be liable for any acts of the governing board.

14 SEC. 2. If the Commission on State Mandates determines that
15 this act contains costs mandated by the state, reimbursement to
16 local agencies and school districts for those costs shall be made
17 pursuant to Part 7 (commencing with Section 17500) of Division
18 4 of Title 2 of the Government Code.

19 SEC. 3. This act is an urgency statute necessary for the
20 immediate preservation of the public peace, health, or safety within
21 the meaning of Article IV of the Constitution and shall go into
22 immediate effect. The facts constituting the necessity are:

23 In order for this bill to be implemented during the 2009–10
24 school year, it is necessary that this act take effect immediately.